

at least one sliding plate connecting at least two said receiving members at end locations on said receiving members displaced from said pivot points, whereby rotation of one said receiving member produces corresponding rotation of any other receiving member so connected by said at least one sliding plate.

### **REMARKS**

This is in response to the Office Action mailed October 15, 2001 in this reissue application. The Applicant thanks the Examiner for careful attention to the application.

Applicant appreciates the indication in paragraph 10 of the Office Action that claims 2-7 contain allowable subject matter. Claim 1 has been rewritten to incorporate all of the limitations of claim 2, and claim 2 has been deleted. Claim 6 has been amended to remove reference to the deleted claim 2. This places claim 1 in condition for allowance, together with its dependent claims 3-7. Claim 8 dependent from claim 1 is also believed patentable, and its allowance is requested.

The foregoing obviates paragraph 4 of the Office Action, and is also believed to satisfy the rejection of claim 8 in paragraph 7 of the Office Action.

The rejection under 35 U.S.C. 112 set forth in paragraphs 1 and 2 of the Office Action is respectfully traversed. At the heart of the rejection is the statement in paragraph 2 that "The original disclosure did not consider, suggest or disclose the use of only one sliding plate for connection to the receiving members." However, the drawings of the original disclosure clearly disclose the use of only one sliding plate for connection to receiving members.

With reference to the various figures and to the specification, there are shorter receiving members 15 and longer receiving members 15'. Each of the receiving members 15, 15' has an end that is shown on the left side of Fig. 1, and each of the ends has a first stub 151 adapted to fit in the apertures 13 in the side wall 12, and a rearwardly disposed stub 152.

Fig. 1 also illustrates two sliding plates 17, which connect the receiving members to each other and to the actuating member 16. The sliding plate 17 shown toward the right side of Fig. 1 has five apertures 18, and connects the shorter receiving members 15 to each other and to the actuating member 16. It is disposed adjacent the separating board 11, under the longer receiving members 15' and is therefore shorter than the sliding plate 17 shown toward the left side of Fig. 1 which connects all of the receiving members 15, 15' to each other and to the actuating member. The longer sliding plate 17 has seven apertures 18, the upper two of which receive the rear stubs 152 of the longer receiving members 15'.

From the above, it can be seen that only one sliding plate, namely the longer sliding plate 17 illustrated toward the left side of Fig. 1, is used to connect the receiving members 15' and 15, and to connect the receiving members 15' and the actuating member 16, which is recognized in the Office Action as being an inherent receiving member. The drawings are, of course, a part of the original disclosure, and solidly support disclosure of the "at least one sliding plate" specified in claim 9.

Amendments to the written specification, themselves fully supported by the drawings, are included in this response to the Office Action, in order to fulfill the requirement that the specification include a written description of the invention. No new matter has been added by these amendments, as they merely describe what is clearly shown in the drawings.

With respect to paragraph 5 of the Office Action, claims 9-12, 14 and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by Vasudeva U.S. Patent 5,803,254. The rejection of paragraph 5 is traversed because both this reissue application and the Vasudeva '254 patent are commonly owned, and at the time the invention herein was made, the inventor was obligated to assign it to the common owner. If required, an Affidavit to this effect will be supplied.

With respect to paragraph 9 of the Office Action, claims 9, 10 and 13-16 are rejected as anticipated by Loomis U.S. Patent 841,551. Claim 9, from which these other rejected claims depend, has been amended to better distinguish the claimed device from the structure disclosed in Loomis.

The Loomis patent is directed toward a display-cabinet for storing and displaying light-weight seed packets. Each tray 4 of the display-cabinet has only a bottom and a back, and is provided with wires 4', 4" and 4<sup>3</sup>, providing the fullest view of the seed packs inserted therein. At the intersection of the bottom and back of each tray, a hinge is provided for hingedly connecting the trays to the back wall of the cover of the display-cabinet. Straps 8 connect the wires 4' for coordinated movement of the trays 4, and a link 10 is connected with the base 2 of the display-cabinet for causing automatic pivoting of the trays 4 when the cover is opened. A brace 6 is provided between the base and cover to hold the display case in its open position.

At the outset, applicant disputes the unsupported conclusion that "Although the Loomis display-cabinet is intended to display seeds, it is inherently capable of holding any tools -- smaller than the recesses of the receiving members." The Loomis trays have only a bottom and a back, and the seed packets are held in place by wires that provide substantial open space along

the ends and front of the trays, most likely so that seed packets can be seen and read. That is the essence of a display-cabinet. The Loomis trays would not hold tools, because tools would slip out of the gaps that Loomis has intentionally made as large as possible. Therefore, applicant's functional limitation of a "tool box" is not met by Loomis.

In applicant's device, as defined in amended claim 9, the base portion has two spaced apart generally parallel walls, and the at least two receiving members are pivotally mounted to the two walls and extend between the two walls. This is a different structure than disclosed in Loomis, and it is a structure that is not taught or suggested in any way by Loomis. Again, the Loomis trays have no fronts or ends, and therefore could not be mounted between side walls. Also, Loomis provides a link 10 and a cover brace 6 that must be accommodated between the ends of the trays and the side walls of the Loomis cover, further teaching against providing any type of pivoting mounting of the trays to the side walls in the area occupied by the link and brace. Thus, claim 9 and claims 10, 13-16 dependent therefrom, are not anticipated by Loomis and are believed patentable over Loomis.

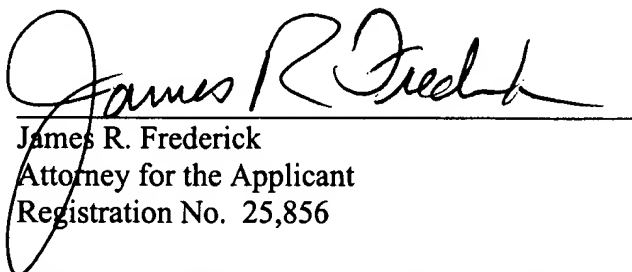
With respect to paragraph 8 of the Office Action, claims 13 and 16 are rejected under 35 U.S.C. 103 as being obvious from Bond and Sidabras, et al, U.S. Patent 5,570,784. These claims depend from claim 9 and are believed patentable for the reasons set forth above, however, they are also believed patentable in that Bond does not teach, show or suggest a structure wherein at least one sliding plate connects two receiving members for providing coordinated movement of the receiving members, and Sidabras does not teach, show or suggest any device having tool receiving recesses within such a structure.

For the foregoing reasons, all of the claims in this application are in condition for allowance, and such forwardable action is earnestly solicited.

Respectfully submitted,

Date:

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A handwritten signature in dark ink, appearing to read "James R. Frederick", is written over a horizontal line.

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**Status of Claims and Support for Claim Changes**

Claim 1. Pending and amended by incorporating the subject matter of claim 2. Support in original specimen and claims (no additions).

Claim 2. Now canceled.

Claims 3-5. No changes.

Claim 6. Amended to delete reference to claim 2, now canceled.

Claims 7&8. No changes.

Claim 9. Filed with reissue application and pending. Amended as shown below, wherein only the deletions with respect to the claim as filed are in brackets and only the additions with respect to the claim as filed are underlined:

9. (Amended) A tool box comprising:

a base portion having a back wall and at least two spaced-apart generally parallel walls extending from the back wall;

at least two receiving members pivotally mounted [between] to said two walls at respective pivot points spaced from the back wall and extending between said two walls; and

at least one sliding plate connecting at least two said receiving members at end locations on said receiving members displaced from said pivot points, whereby rotation of one said receiving member produces corresponding rotation of any other receiving member so connected by said at least one sliding plate.

Support is found in the drawings and in the specification at Col. 2, lines 28-51.

Claims 10-16. No changes.